

FILED

JUL 27 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RICHARD EDWARD MOSLEY, aka Fat
Rick, Rick Mosley, Richard Elton Mosley,
Johnny Fitzgerald Mosley,

Defendant - Appellant.

No. 05-50811

D.C. No. CR-03-00084-VAP-23

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Virginia A. Phillips, District Judge, Presiding

Submitted July 24, 2006^{**}

Before: ALARCON, HAWKINS, and THOMAS, Circuit Judges.

Richard Mosley appeals from the sentence imposed following his guilty
plea to conspiracy to manufacture and distribute phencyclidine, in violation of 21

^{*} This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

U.S.C. § 841(a)(1) and 846. Mosley contends that the district court erred by denying his motion for downward departure based upon minor role, medical condition and criminal history category.

In his plea agreement, Mosley waived his right to appeal any sentence that was constitutional, was within the statutory maximum and was based on an adjusted offense level of 29 or below. Because the district court imposed a sentence that comported with the conditions set forth in the plea agreement, we lack jurisdiction over this appeal. *See United States v. Anglin*, 215 F.3d 1064, 1065-68 (9th Cir. 2000).

DISMISSED.